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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,944	07/18/2003	Zealla Flores	00-0256	4448
40158	7590	11/16/2005	EXAMINER	
WOODS FULLER SHULTZ & SMITH P.C. ATTN: JEFFREY A. PROEHL P.O. BOX 5027 SIOUX FALLS, SD 57117			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/622,944	Applicant(s) FLORES, ZEALLA	
	Examiner Tri M. Mai	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/18/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of the ends portions does not have a fifth bar and sixth bar. Rather, the rack having fifth and sixth bar as claimed.

2. Claims 1, 5, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (6726041) in view of Levere or Woerner (6669213). Dunn teaches a rack having a pair of end portions each of the end portions having a first bar (between the lower portions 115), a second bar 103 being integrally coupled to and extending away from second bar, a third bar (between the upper portions 115), and a fourth bar (bar above the upper 111), a fifth bar, and a sixth bar. Dunn meets all claimed limitations except for the fifth bar and sixth bar being removable. It would have been obvious for one of ordinary skill in the art to provide removable as taught by Levere or Woerner (note corner joints in Fig. 5) to enable one to disassemble the entire rack.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Husak et al. (5678706). Husak teaches a rack having the 6 bars as claimed.

4. Claim 1 is rejected under 35 U.S.C. 102 (b) as being anticipated by Levere (3217449). Levere teaches a first bar (1st lower bar 32), 2nd bar (2nd bar)24, 3rd bar (the 2nd middle bar 32), 4th bar (3rd upper bar 24), 5th bar (middle bar 34), and 6th bar (lower bar 34).

5. Claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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6. Claims 2-4, and 6-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
Art Unit 3727

